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I N S E N A T E

May 26, 2010

Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the penal law, in relation to distribution of certain mandatory surcharges imposed for alcohol-related traffic convictions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (a) of subdivision 1 of section 1197 of the vehi-
2 cle and traffic law, as separately amended by chapters 196 and 688 of
3 the laws of 1996 and subparagraph 3 as amended by chapter 345 of the
4 laws of 2007, is amended to read as follows:
5 (a) Where a county establishes a special traffic options program for
6 driving while intoxicated, pursuant to this section, it shall receive
7 fines [and], forfeitures, AND ON AND AFTER THE FIRST DAY OF APRIL, TWO
8 THOUSAND ELEVEN, MANDATORY SURCHARGES SET FORTH IN SECTIONS EIGHTEEN
9 HUNDRED NINE-C AND EIGHTEEN HUNDRED NINE-E OF THIS CHAPTER, collected by
10 any court, judge, magistrate or other officer within that county,
11 including, where appropriate, a hearing officer acting on behalf of the
12 commissioner[,]: (1) imposed for violations of subparagraphs (ii) and
13 (iii) of paragraph (a) of subdivision two or subparagraph (i) of para-
14 graph (a) of subdivision three of section five hundred eleven of this
15 chapter; (2) imposed in accordance with the provisions of section eleven
16 hundred ninety-three, PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION
17 ELEVEN HUNDRED NINETY-SIX, SUBDIVISION NINE OF SECTION ELEVEN HUNDRED
18 NINETY-EIGHT, and civil penalties imposed pursuant to subdivision two of
19 section eleven hundred ninety-four-a of this article, including, where
20 appropriate, a hearing officer acting on behalf of the commissioner,
21 from violations of sections eleven hundred ninety-two, eleven hundred
22 ninety-two-a and findings made under section eleven hundred
23 ninety-four-a of this article; and (3) imposed upon a conviction for:
24 aggravated vehicular assault, pursuant to section 120.04-a of the penal
25 law; vehicular assault in the first degree, pursuant to section 120.04
26 of the penal law; vehicular assault in the second degree, pursuant to
27 section 120.03 of the penal law; aggravated vehicular homicide, pursuant

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 to section 125.14 of the penal law; vehicular manslaughter in the first
2 degree, pursuant to section 125.13 of the penal law; and vehicular
3 manslaughter in the second degree, pursuant to section 125.12 of the
4 penal law, as provided in section eighteen hundred three of this chap-
5 ter. Upon receipt of these moneys, the county shall deposit them in a
6 separate account entitled "special traffic options program for driving
7 while intoxicated," and they shall be under the exclusive care, custody,
8 and control of the chief fiscal officer of each county participating in
9 the program.

10 S 2. Paragraphs (b) and (c) of subdivision 5 of section 1197 of the
11 vehicle and traffic law, as added by chapter 47 of the laws of 1988, are
12 amended to read as follows:

13 (b) Receive proposals from county, town, city or village agencies or
14 non-governmental groups for activities related to alcohol traffic
15 safety, INCLUDING THE IMPLEMENTATION OF THE IGNITION INTERLOCK PROGRAM
16 AS SET FORTH IN SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS ARTICLE, and
17 to submit them to the county board of legislators or other such govern-
18 ing body, together with a recommendation for funding of the activity if
19 deemed appropriate.

20 (c) Cooperate with and assist local officials within the county in the
21 formulation and execution of alcohol traffic safety programs including
22 enforcement, adjudication, rehabilitation [and], education AND IMPLEMEN-
23 TATION OF THE IGNITION INTERLOCK PROGRAM AS SET FORTH IN SECTION ELEVEN
24 HUNDRED NINETY-EIGHT OF THIS ARTICLE.

25 S 3. The opening paragraph of subdivision 9 of section 1803 of the
26 vehicle and traffic law, as amended by chapter 345 of the laws of 2007,
27 is amended to read as follows:

28 Where a county establishes a special traffic options program for driv-
29 ing while intoxicated, approved by the commissioner [of motor vehicles],
30 pursuant to section eleven hundred ninety-seven of this chapter, all
31 fines, penalties [and], forfeitures, AND ON AND AFTER THE FIRST DAY OF
32 APRIL, TWO THOUSAND ELEVEN, MANDATORY SURCHARGES SET FORTH IN SECTIONS
33 EIGHTEEN HUNDRED NINE-C AND EIGHTEEN HUNDRED NINE-E OF THIS ARTICLE:

34 (A) IMPOSED AND collected [from] FOR violations of subparagraphs (ii)
35 and (iii) of paragraph (a) of subdivision two or subparagraph (i) of
36 paragraph (a) of subdivision three of section five hundred eleven[, all
37 fines, penalties and forfeitures] OF THIS CHAPTER; (B) imposed AND
38 COLLECTED in accordance with section eleven hundred ninety-three of this
39 chapter [collected from] FOR violations of section eleven hundred nine-
40 ty-two of this chapter; [and any fines or forfeitures] (C) IMPOSED AND
41 COLLECTED FOR VIOLATIONS OF PARAGRAPH (F) OF SUBDIVISION SEVEN OF
42 SECTION ELEVEN HUNDRED NINETY-SIX OF THIS CHAPTER OR FOR VIOLATIONS OF
43 SUBDIVISION NINE OF SECTION ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER;
44 (D) collected by any court, judge, magistrate or other officer imposed
45 upon a conviction for: aggravated vehicular assault, pursuant to section
46 120.04-a of the penal law; vehicular assault in the first degree, pursu-
47 ant to section 120.04 of the penal law; vehicular assault in the second
48 degree, pursuant to section 120.03 of the penal law; aggravated vehicu-
49 lar homicide, pursuant to section 125.14 of the penal law; vehicular
50 manslaughter in the first degree, pursuant to section 125.13 of the
51 penal law; and vehicular manslaughter in the second degree, pursuant to
52 section 125.12 of the penal law; and (E) civil penalties imposed pursu-
53 ant to subdivision two of section eleven hundred ninety-four-a of this
54 chapter, shall be paid to such county.

1 S 4. Subdivisions 1 and 2 of section 1809-c of the vehicle and traffic
2 law, as added by section 37 of part J of chapter 62 of the laws of 2003,
3 are amended to read as follows:

4 1. Notwithstanding any other provision of law, whenever proceedings in
5 a court of this state result in a conviction pursuant to: (A) section
6 eleven hundred ninety-two of this chapter; (B) SUBPARAGRAPHS (II) AND
7 (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARA-
8 GRAPH (A) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS
9 CHAPTER; (C) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN
10 HUNDRED NINETY-SIX OF THIS CHAPTER; OR (D) SUBDIVISION NINE OF SECTION
11 ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in
12 addition to any sentence or other surcharge required or permitted by
13 law, an additional surcharge of twenty-five dollars.

14 2. The additional surcharge provided for in subdivision one of this
15 section shall be paid to the clerk of the court that rendered the
16 conviction. Within the first ten days of the month following collection
17 of the surcharge the collecting authority shall determine the amount of
18 surcharge collected and it shall pay such money to the state comptroller
19 who shall deposit such money in the state treasury pursuant to section
20 one hundred twenty-one of the state finance law to the credit of the
21 general fund; PROVIDED, HOWEVER, WHERE A COUNTY ESTABLISHES A SPECIAL
22 TRAFFIC OPTIONS PROGRAM FOR DRIVING WHILE INTOXICATED PURSUANT TO
23 SECTION ELEVEN HUNDRED NINETY-SEVEN OF THIS CHAPTER, ON AND AFTER THE
24 FIRST DAY OF APRIL, TWO THOUSAND ELEVEN, SUCH SURCHARGE SHALL BE PAID TO
25 THE COUNTY WHERE THE CONVICTION WAS RENDERED.

26 S 5. Paragraph b of subdivision 1 and subdivision 2 of section 1809-e
27 of the vehicle and traffic law, as added by section 1 of part EE of
28 chapter 56 of the laws of 2008, are amended to read as follows:

29 b. Notwithstanding any other provision of law, whenever proceedings in
30 a court of this state result in a conviction pursuant to: (1) section
31 eleven hundred ninety-two of this chapter; (2) SUBPARAGRAPHS (II) AND
32 (III) OF PARAGRAPH (A) OF SUBDIVISION TWO OR SUBPARAGRAPH (I) OF PARA-
33 GRAPH (A) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED ELEVEN OF THIS
34 CHAPTER; (3) PARAGRAPH (F) OF SUBDIVISION SEVEN OF SECTION ELEVEN
35 HUNDRED NINETY-SIX OF THIS CHAPTER; OR (4) SUBDIVISION NINE OF SECTION
36 ELEVEN HUNDRED NINETY-EIGHT OF THIS CHAPTER, there shall be levied, in
37 addition to any sentence or other surcharge required or permitted by
38 law, an additional surcharge of one hundred seventy dollars.

39 2. The additional surcharges provided for in subdivision one of this
40 section shall be paid to the clerk of the court or administrative tribu-
41 nal that rendered the conviction. Within the first ten days of the month
42 following collection of such surcharges, the collecting authority shall
43 pay such money to the state comptroller [to be deposited to] WHO SHALL
44 DEPOSIT SUCH MONEY IN THE STATE TREASURY PURSUANT TO SECTION ONE HUNDRED
45 TWENTY-ONE OF THE STATE FINANCE LAW TO THE CREDIT OF the general fund;
46 PROVIDED, HOWEVER, WHERE A COUNTY ESTABLISHES A SPECIAL TRAFFIC OPTIONS
47 PROGRAM FOR DRIVING WHILE INTOXICATED PURSUANT TO SECTION ELEVEN HUNDRED
48 NINETY-SEVEN OF THIS CHAPTER, ON AND AFTER THE FIRST DAY OF APRIL, TWO
49 THOUSAND ELEVEN, ANY SUCH SURCHARGE COLLECTED PURSUANT TO PARAGRAPH B OF
50 SUBDIVISION ONE OF THIS SECTION SHALL BE PAID TO THE COUNTY WHERE THE
51 CONVICTION WAS RENDERED.

52 S 6. Subdivision 3 of section 60.35 of the penal law, as amended by
53 section 1 of part E of chapter 56 of the laws of 2004, is amended to
54 read as follows:

55 3. The mandatory surcharge, sex offender registration fee, DNA data-
56 bank fee, crime victim assistance fee, and supplemental sex offender

1 victim fee provided for in subdivision one of this section shall be paid
2 to the clerk of the court or administrative tribunal that rendered the
3 conviction. Within the first ten days of the month following collection
4 of the mandatory surcharge, crime victim assistance fee, and supple-
5 mental sex offender victim fee, the collecting authority shall determine
6 the amount of mandatory surcharge, crime victim assistance fee, and
7 supplemental sex offender victim fee collected and, if [it] THE COLLECT-
8 ING AUTHORITY is an administrative tribunal[,] or a town or village
9 justice court, it shall then pay such money to the state comptroller
10 who, UNLESS OTHERWISE AUTHORIZED PURSUANT TO THE OPENING PARAGRAPH OF
11 SUBDIVISION NINE OF SECTION EIGHTEEN HUNDRED THREE OF THE VEHICLE AND
12 TRAFFIC LAW, shall deposit such money in the state treasury pursuant to
13 section one hundred twenty-one of the state finance law to the credit of
14 the criminal justice improvement account established by section ninety-
15 seven-bb of the state finance law. Within the first ten days of the
16 month following collection of the sex offender registration fee and DNA
17 databank fee, the collecting authority shall determine the amount of the
18 sex offender registration fee and DNA databank fee collected and, if it
19 is an administrative tribunal, or a town or village justice court, it
20 shall then pay such money to the state comptroller who shall deposit
21 such money in the state treasury pursuant to section one hundred twen-
22 ty-one of the state finance law to the credit of the general fund. If
23 such collecting authority is any other court of the unified court
24 system, it shall, within such period, UNLESS OTHERWISE AUTHORIZED PURSU-
25 ANT TO THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION EIGHTEEN
26 HUNDRED THREE OF THE VEHICLE AND TRAFFIC LAW, pay such money attribut-
27 able to the mandatory surcharge or crime victim assistance fee to the
28 state commissioner of taxation and finance to the credit of the criminal
29 justice improvement account established by section ninety-seven-bb of
30 the state finance law. If such collecting authority is any other court
31 of the unified court system, it shall, within such period, pay such
32 money attributable to the sex offender registration fee and the DNA
33 databank fee to the state commissioner of taxation and finance to the
34 credit of the general fund.

35 S 7. This act shall take effect immediately, provided, however, the
36 provisions of sections one, three, four and five of this act shall take
37 effect on the sixtieth day after it shall have become a law, and
38 provided further, however, that section six of this act shall take
39 effect on the first of April, 2011.